



21 DEC 2005

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In re Application of  
BOUILLOUX-LAFONT et al.  
U.S. Application No.: 10/511,772  
PCT No.: PCT/EP03/50120  
Int. Filing Date: 22 April 2003  
Priority Date: 23 April 2002  
Attorney Docket No.: 11345/049001  
For: CHAT FOR TELEVISION NETWORK

DECISION ON PETITION  
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371" filed 07 November 2005, which is being treated as a Petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventors, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre. The required petition fee of \$200.00 has been submitted.

### BACKGROUND

On 22 April 2003, applicants filed international application PCT/EP03/50120 which claimed a priority date of 23 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 October 2004.

On 19 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application.

On 06 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 07 November 2005, applicants filed a Petition under 37 CFR 1.47(a) and a five-month extension of time.

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the

missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, petitioner states that Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre have refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Regarding item 2 above, a review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that petitioner has not provided sufficient proof that the inventor refuses to execute the application. Petitioner has provided a chronological proof of pertinent facts outlining the efforts to reach Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre and copies of the letters sent to the nonsigning inventors. However, the statements made with regards to the efforts to reach nonsigning inventors constitute secondhand knowledge, at best, in that the majority of the actions to which petitioner is averring to were conducted by Isabelle Thibaudeau.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre, and when such

papers were sent.

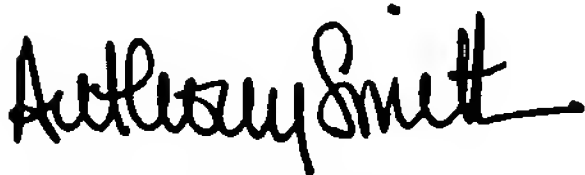
For the reasons stated above, it would not be appropriate to accept the application without the signature of Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre under 37 CFR 1.47(a) at this time.

### CONCLUSION

The petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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